

**26-19-13.5 Estate and trust recovery.**

- (1) Upon a recipient's death, the department may recover from the recipient's estate and any trust, in which the recipient is the grantor and a beneficiary, medical assistance correctly provided for the benefit of the recipient when the recipient was 55 years of age or older if, at the time of death, the recipient has no:
  - (a) surviving spouse; or
  - (b) child:
    - (i) younger than 21 years of age; or
    - (ii) who is blind or has a permanent and total disability.
- (2)
  - (a) The amount of medial assistance correctly provided for the benefit of a recipient and recoverable under this section is a lien against the estate of the deceased recipient or any trust when the recipient is the grantor and a beneficiary.
  - (b) The lien holds the same priority as reasonable and necessary medical expenses of the last illness as provided in Section 75-3-805.
- (3)
  - (a) The department shall perfect the lien by filing a notice in the court of appropriate jurisdiction for the amount of the lien, in the same manner as a creditor's claim is filed, prior to final distribution.
  - (b) The department may file an amended lien prior to the entry of the final order closing the estate.
- (4) Claims against a deceased recipient's inter vivos trust shall be presented in accordance with Sections 75-7-509 and 75-7-510.
- (5) Any trust provision that denies recovery for medical assistance is void at the time of its making.
- (6) Nothing in this section affects the right of the department to recover Medicaid assistance before a recipient's death under Section 26-19-4.5 or Section 26-19-13.7.

Amended by Chapter 366, 2011 General Session